IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6297 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JAY MELADIKRUPA KHADI GRAMODHYOG SEVA SANGH

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 6297 of 1999

MR BS PATEL for Petitioner No. 1

MRS RANJAN B PATEL for Petitioner No. 1

MS NANDINI JOSHI AGP for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 18/10/2004

ORAL JUDGEMENT

1. The petitioner Society has preferred this

petition in order to quash and set aside the order passed by respondent no.3 dated 30/12/1998, at Annexure-A to the petition, confirmed by respondent no.2 by order dated 05/02/1999, at Annexure-B to the petition, and also confirmed in revision by respondent no.1 by order dated 10/08/1999, at Annexure-C to the petition.

2. The petitioner Society was holding a license for running a fair price shop at Village Dhanvada in Ahmedabad District. On inspection of the said shop, as certain irregularities were found, respondent no.3, District Supply Officer, issued show cause notice to the petitioner dated 06/10/1998, at Annexure-D to the petition. The petitioner gave reply to the said show cause notice vide reply dated 02/11/1998. Respondent no.3 vide order dated 30/12/1998, at Annexure-A to the petition, directed the deposit and cancellation of the license of the petitioner.

3. Feeling aggrieved by the order of respondent no.3, the petitioner preferred an appeal before respondent no.2. Respondent no.2 vide order dated 05/02/1999 rejected the appeal of the petitioner. By order dated 06/03/1999, respondent no.1, State Government rejected the application for granting interim stay against the order dated 05/02/1999, which was filed alongwith the Revision Application, without affording any hearing to the petitioner Society.

4. Mr.B S Patel learned advocate for the petitioner Society has contended that respondent no.3 had passed the order at Annexure-A to the petition, without supplying all the documentary evidence upon which the notice had been issued. He has further contended that the respondent authority ought not to have taken the drastic step of cancelling the license of the petitioner Society, as the said fair price shop was being run by members belonging to the scheduled tribe community.

5. I have heard learned counsel for the parties and perused the relevant documents on record. Now, considering the fact that the petitioner is a Society consisting of members belonging to the scheduled caste community, and, more particularly, when the allegations made against the Society are of a technical nature, except the allegations at Sr.No.6 & 7, it would be appropriate to give one more opportunity to the petitioner Society to run the said shop.

6. In that view of the matter, the orders of the respondent authorities dated 30/12/1998, 05/02/1999 and

10/08/1999 are quashed and set aside, on condition that the office bearer of the petitioner Society shall file an undertaking before the authority to the effect that if some irregularity is committed in future, then the authority, namely the District Supply Officer, shall be at liberty to issue show cause notice to the said office bearer, and if ultimately, it is proved by the documents that irregularities have been committed, then the District Collector will be at liberty to cancel the license of the petitioner, which shall not be a subject matter of challenge. On the above condition, the orders of the District Supply Officer, the District Collector and the State Government are quashed and set aside, only, qua the cancellation of the license. The other part of the order dated 30/12/1998 pertaining to penalty and deposit are confirmed.

6. With the above direction, the petition stands partly allowed. Rule is made absolute to the above extent. This Court has passed the above order considering this to be a special case and it shall not be taken as precedent in other cases.

(K. S. Jhaveri, J.)

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